

REMARKS/ARGUMENTS

Status of the Claims

Claims 1-2, 4-9 and 11-20 are currently pending in the application. Claims 1-2, 4-9 and 11-20 have been amended. No claims have been added or canceled. No new matter has been added by the amendments. Therefore, claims 1-2, 4-9 and 11-20 are present for examination. Claims 1, 11 and 17 are independent claims.

Claim Rejection Under 35 U.S.C. 103

Claims 1-2, 4-9 and 11-20 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2005/0044155 A1 issued to Kaminski et al. ("Kaminski") in view of U.S. Patent Application Publication No. 2003/0233418 A1 to Goldman ("Goldman"). Applicants respectfully request reconsideration of the rejection because the Examiner has failed to show a *prima facie* case of anticipation. The present application (hereinafter the "Application") has a filing date of October 30, 2003. For purposes of examination, the earliest priority date of the Application is considered the date of invention. 35 U.S.C. § 102(e) states:

A person shall be entitled to a patent unless — . . .

(e) the invention was described in — (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language; . . .

Kaminski cannot be considered prior art under 35 U.S.C. § 102(e) because Kaminski was not filed before the invention of the present application. Kaminski has a filing

date of August 10, 2004. However, Kaminski claims priority to U.S. Provisional Application No. 60/497,446 (“446 Application”) filed August 22, 2003. However, for the Examiner to use the earlier date of the ‘446 Application, the Examiner must demonstrate that the material relied upon in Kaminski was present in the ‘446 Application. *See MPEP § 2136.03.*

Unfortunately, some of the description relied upon by the Examiner is not present in the ‘446 Application. Indeed, ¶ [0034] in Kaminski is missing from the ‘446 Application. This information is used to reject at least one claim element. Thus, this description cannot be afforded the earlier priority date, and thus, Kaminski, or at least this portion of Kaminski, is not prior art under 35 U.S.C. § 102(c). Applicants respectfully request the Examiner to withdraw the rejection under 35 U.S.C. § 102(e) as it applies to all claims and issue a notice of allowance at the earliest convenience.

Missing Limitation: “an authorization indicator that indicates a source of said request for authorization, wherein the authorization indicator is sent after authorization”

Claim 1 requires “an authorization indicator that indicates a source of said request for authorization, wherein the authorization indicator is sent after authorization.” The Examiner states that Kaminski does not teach verifying a source address in the a mail message against an address in the authorization indicator. *See Office Action, p. 5.* The Examiner relies on Goldman. The relevant section of Goldman is as follows:

Another option for verifying whether a sender exists as part of the process of determining whether to authorize the sender involves sending a request electronic message to a manager of the domain of the sender's address instead of, or in addition to, sending the request to the purported sender. For instance, if an incoming electronic message has a sender's address of "sender@alfabaker.com", the request that is used to verify whether the sender is to be authorized can be sent to "sender@alfabaker.com", a manager of the domain "alfabaker.com" (e.g., postmaster@alfabaker.com), or both. The manager can verify whether the purported sender's address is in fact a valid address, which would generally not be the case when a spammer spoofs a sender's address.

Goldman, ¶ [0063].

However, Goldman in this section or elsewhere is silent as to an authorization indicator that is sent after authorization. Therefore, neither Goldman nor Kaminski describe this claim element. For at least this reason, claim 1 is allowable over the cited art.

Claims 2 and 4-9:

Claims 2 and 4-9 all depend, either directly or indirectly, from allowable independent claim 1. Thus, claims 2 and 4-9 are allowable due, at least in part, to this dependence on an allowable base claim.

Claim 11:

Claim 11 includes similar elements as claim 1. Indeed, the Examiner states as much in the Office Action. *See Office Action*, p. 8. Thus, for the same or similar reasons as stated in conjunction with claim 1, claim 11 is also allowable over the cited art.

Claims 12-16:

Claims 12-16 all depend, either directly or indirectly, from allowable independent claim 11. Thus, claims 12-16 are allowable due, at least in part, to this dependence on an allowable base claim.

Claim 17:

Claim 17 includes similar elements as claim 1. Indeed, the Examiner states as much in the Office Action. *See Office Action*, p. 8. Thus, for the same or similar reasons as stated in conjunction with claim 1, claim 17 is also allowable over the cited art.

Claims 18-20:

Claims 18-20 all depend, either directly or indirectly, from allowable independent claim 17. Thus, claims 18-20 are allowable due, at least in part, to this dependence on an allowable base claim.

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CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested. Applicants do not acquiesce to any argument not specifically addressed herein. Rather, Applicants believe the present amendments and argument overcome all rejections.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,



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